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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,138	09/16/2005	Nicholas Andrew Murray Drought	920602-99275	4556
23644 7590 09/05/2008 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER KUMAR, RAKESH				
ART UNIT 3651		PAPER NUMBER		
NOTIFICATION DATE 09/05/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent-ch@btlaw.com

### Office Action Summary

**Application No.**

10/531,138

**Applicant(s)**

DROUGHT ET AL.

**Examiner**

RAKESH KUMAR

**Art Unit**

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,11,12,15 and 16 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1. Claim 1 recites the limitations "either one of the abutment means and the receiving means being moveable." It is unclear as to whether there are multiple abutment means ("either one of the abutment means") or whether a abutment means is moveable or a receiving means are moveable. Appropriate action is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5-9,11-13,15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Honan (US 5,348,158).

Referring to claim 1. Honan discloses an apparatus for releasing tablets from a blister pack (Figure 1) having a plurality of tablets contained in corresponding blisters, the apparatus comprising abutment means (including 30-33 Figure 7), receiving means (including 13 and 12; Figure 1) for receiving a blister pack with any selected one of a plurality of blisters of the pack in registry with the abutment means (including 30-33 Figure 7), the receiving means (including 13 and 12; Figure 1) comprising a pair of opposed jaws (member 13 and 12), the jaws being moveable relative to one another (see Figure 1 and 2), either one of the abutment means and the receiving means being moveable (in this instance the abutment means referring to members 30-33; Figure 7) to cause a collapsing force to be exerted on a selected blister (15; Figure 6) thereby to release a tablet (16) from the blister (15),

wherein the apparatus includes biasing means (22) for urging the receiving means into engagement with the blister pack (see triangular members engaged with the blister pack 14; Figure 6), and the receiving means (including 13 and 12; Figure 1) is so arranged that said engagement releasably retains, and locates, the blister pack in position (by circumferential ridges of member 13; see Figure 1) relative to the abutment means (including 30-33 Figure 7) prior to the release of the tablet (16), and wherein the biasing means (22) is operable to bias the jaws (member 13 and 12) into a neutral position (as in Figure 4), in which they are spaced apart so as to be able to receive a blister pack.

Referring to claim 2. Honan discloses an apparatus wherein the abutment means (including 30-33 Figure 7) is moveable towards a blister of a pack retained in the receiving means (member 13 and 12).

Referring to claim 3. Honan discloses an apparatus wherein the receiving means (member 13 and 12) is arranged to receive a blister pack so that the selected blister faces the abutment means (including 30-33 Figure 7), the latter being operable to exert said collapsing force by directly engaging the blister (Figure 6).

Referring to claim 5. Honan discloses an apparatus wherein one of the jaws (12; Figure 6) is so shaped as to locate a selected blister in registry with the abutment means (including 30-33 Figure 7), and has a recess of a complimentary shape to that of a blister (see blister resting in Figure 6).

Referring to claim 6. Honan discloses an apparatus wherein the abutment means (including 30-33; Figure 7) comprises a plunger (31 and 32) moveably mounted on a jaw (12) of the receiving means (including 13 and 12; Figure 1).

Referring to claim 7. Honan discloses an apparatus wherein the biasing means (22) is integrally formed with a jaw (12 and 13).

Referring to claim 8,9. Honan discloses an apparatus wherein the biasing means (22) comprises a resiliently flexible connecting arm (see ledge in Figure 6). U shaped in Figure 4.

Referring to claims 11,12 and 13. Honan discloses an apparatus wherein the apparatus includes a further biasing means (33; Figure 7) which acts between the

plunger (31 and 32) and the jaw (12) in which it is mounted so as to urge the plunger away from the other jaw (13; Figure 6).

Referring to claim 15. Honan discloses an apparatus wherein the apparatus includes a base (35; Figure 5) for supporting the jaws (12 and 13) on a supporting surface, the base (35) including an opening (opening 37) and a chute (passage 20) for conducting a tablet released from a blister pack to the opening.

Referring to claim 16. Honan discloses an apparatus wherein the plunger (31 and 32) has a head (30), to be pressed by the user, which is considerably larger than a blister (Figure 6).

#### ***Allowable Subject Matter***

Claim 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claim 1-16 have been considered but are moot in view of the new ground(s) of rejection. See modified rejections above.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

/RAKESH KUMAR/  
Examiner, Art Unit 3651

